

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA
EX REL. THOMAS GERAHTY and
THOMAS BURKE

Plaintiffs,

v.

GLAXOSMITHKLINE PLC, and,
SMITHKLINE BEECHAM CORP. d/b/a/
GLAXOSMITHKLINE
Defendants.

No. 03-CV-10641-NG
Hon. Nancy Gertner
FILED UNDER SEAL

also filed in

UNITED STATES OF AMERICA
EX REL. GREGORY W. THORPE
and BLAIR HAMRICK

Plaintiffs,

v.

GLAXOSMITHKLINE PLC, and,
SMITHKLINE BEECHAM CORP. d/b/a/
GLAXOSMITHKLINE
Defendants.

No. 11-CV-10398
Hon. Nancy Gertner
FILED UNDER SEAL

JOINT MOTION FOR A SIX-WEEK EXTENSION OF THE SEAL
PENDING COMPLETION OF RELATED CRIMINAL TRIAL

The United States hereby moves for a six-week extension of the seal and time for filing the United States' Complaint in these matters due to, among other things, the pendency of a criminal trial on related issues.¹ Defendant GlaxoSmithKline plc (GlaxoSmithKline) has been apprised of and joins in this motion.

¹On April 5, 2011, the Court allowed the United States' application to administratively consolidate the above-captioned cases.

Relators, through counsel, have informed the United States that they consent to this motion.

On January 14, 2011, the United States filed a notice of intervention in *United States ex rel Gerahty v. GlaxoSmithKline PLC*. Docket No. 64. On January 27, 2011 the Court ordered that the United States had until May 17, 2011 to file its Complaint and that the seal would be extended until that date. Docket No. 65.

On March 23, 2011, the United States District Court for the District of Maryland dismissed, without prejudice, the criminal indictment of GlaxoSmithKline's former in-house counsel, Lauren Stevens, and continued the criminal trial that had been set to begin on April 5, 2011. *United States v. Lauren Stevens*, 8:10-cr-00694-RWT (D. Md.), Docket Nos. 133, 138. Stevens was re-indicted on April 14, 2011, and the criminal trial began on April 26, 2011, and is scheduled to last through May 20, 2011.

A six-week extension of the May 17, 2011, deadline in the civil matter before this Court is warranted so that the criminal trial and post-trial deliberations may be completed before the unsealing and commencement of the related civil case. The United States' civil Complaint will contain factual allegations pertaining to GlaxoSmithKline's conduct concerning the drug Wellbutrin and certain of that conduct underlies the allegations at issue in the *Stevens* case. The unsealing of the United

States' Complaint may well receive national media attention, including in the greater DC area (and Greenbelt, Maryland, where the *Stevens* trial is taking place) and particularly more so if it is done in the middle of a criminal trial involving GlaxoSmithKline's former in-house counsel. To avoid any potentially prejudicial effect on the criminal matter, the United States submits that an extension of the seal in the civil matter is appropriate. In addition, the lead co-counsel for the government in the criminal trial is also co-counsel on the civil matter in this Court. An extension beyond the end of the criminal trial will allow sufficient time for all government counsel to participate in the final stages of preparing the civil Complaint.

Lastly, the extension of the seal will allow the United States to consolidate other related matters with the instant case. In addition to *United States ex rel. Thorpe v. GlaxoSmithKline*, which was recently transferred to this District and consolidated with the *Gerahty* matter, there are two other *qui tam* actions in different federal districts alleging related off-label marketing conduct by GlaxoSmithKline. Applications to transfer those cases to this Court have been filed, and the extension will permit time for those related cases to be transferred to this District and proceed in an orderly fashion with respect to the filing of the United States' Complaint.

For the above stated reasons, the United States respectfully requests that this Court grant an extension to and including June 28, 2011, for the United States to file its Complaint and during which time this matter shall remain under seal. The parties are willing to participate in a status conference to the extent that would be helpful to the Court.

A Proposed Order accompanies this memorandum.

Respectfully submitted,

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